

REMARKS

The Office Action of May 5, 2005, has been considered by the Applicants. Claims 1-8 remain pending. Applicant requests reconsideration of the application.

The disclosure was objected to because of a misnumbered reference in the specification. The specification has been amended to read –18— instead of “16” on page 4, line 19. Applicant requests withdrawal of the objection.

Claims 1-8 were rejected under 35 U.S.C. 103(a) as unpatentable over admitted prior art in view of the Brochure of Brightline Nylon-AB. Applicant traverses the rejection.

There is no motivation to combine the references. The Examiner points to the Brochure as suggesting the filaments described may be used in any cleaning brush. However, the Brochure goes on to say the filaments “can be used for cosmetic and hygiene brushes”; see the APPLICATIONS section. Applicant submits that the Brochure is a marketing brochure and that the phrase “any cleaning brush” is mere puffery. It would be understood as disclosing the use of this filament in the brushes specifically described, e.g., a toothbrush. It would not be understood as disclosing the use of the filament in a brush for use on surgical, medical, and veterinary instruments. Therefore, a *prima facie* case of obviousness has not been made.

Applicant also offers evidence of secondary considerations in this application. A 1.132 declaration has been submitted which offers evidence of commercial success and long-felt need for the instant invention. This evidence is indicative of nonobviousness.

All requirements are met for a showing of commercial success. The declaration establishes a clear nexus between the claimed invention and the commercial success. The claimed feature, wherein the bristles are antibacterial, is the sole difference from the prior art; see ¶ 9. This success is not the result of heavy advertising, but flows from the functions and advantages disclosed by the specification. See MPEP § 716.03. In particular, note that unit sales for the new brush (with antibacterial bristles) have increased dramatically over what would have been expected by prior year sales.

All requirements are also met for a showing of long-felt need. The need has been recognized and acted upon in the marketplace; see ¶ 8. It was not satisfied by

another before the invention by applicant; see ¶ 7. The invention satisfies the long-felt need; see ¶ 10. See MPEP § 716.04.

For the above reasons, Applicant requests withdrawal of the 103(a) rejection.

CONCLUSION

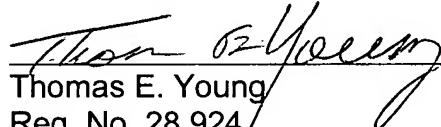
It is respectfully submitted all claims remaining in the application (Claims 1-8) are now in condition for allowance. Applicant requests withdrawal of the rejections and issuance of a Notice of Allowance.

Respectfully submitted,

FAY, SHARPE, FAGAN,
MINNICH & McKEE, LLP

August 8, 2005

Date


Thomas E. Young
Reg. No. 28,924
1100 Superior Avenue
7th Floor
Cleveland, Ohio 44114-2579
(216) 861-5582

N:\SSIC\200002\GXH0000196V001.doc